

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 768

Introduced by Cornett, 45; Gay, 14; Kopplin, 3; Preister, 5.

Read first time January 09, 2008

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to sanitary and improvement districts; to amend
2 section 31-727, Reissue Revised Statutes of Nebraska; to
3 provide for the power to contract for library services;
4 and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-727, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 31-727 (1) (a) A majority of the owners having an interest
4 in the real property within the limits of a proposed sanitary
5 and improvement district, situated in one or more counties in
6 this state, may form a sanitary and improvement district for the
7 purposes of installing electric service lines and conduits, a sewer
8 system, a water system, an emergency management warning system, a
9 system of sidewalks, public roads, streets, and highways, public
10 waterways, docks, or wharfs, and related appurtenances, contracting
11 for water for fire protection and for resale to residents of the
12 district, contracting for police protection and security services,
13 contracting for library services, and contracting for gas and for
14 electricity for street lighting for the public streets and highways
15 within such proposed district, constructing and contracting for
16 the construction of dikes and levees for flood protection for the
17 district, and acquiring, improving, and operating public parks,
18 playgrounds, and recreational facilities.

19 (b) The sanitary and improvement district may also
20 contract with a county within which all or a portion of such
21 sanitary and improvement district is located or a city within
22 whose zoning jurisdiction such sanitary and improvement district
23 is located for any public purpose specifically authorized in this
24 section.

25 (c) Sanitary and improvement districts located in

1 any county which has a city of the metropolitan class within
2 its boundaries or in any adjacent county which has adopted a
3 comprehensive plan may contract with other sanitary and improvement
4 districts to acquire, build, improve, and operate public parks,
5 playgrounds, and recreational facilities for the joint use of the
6 residents of the contracting districts.

7 (d) Nothing in this section shall authorize districts to
8 purchase electric service and resell the same.

9 (e) The district, in lieu of establishing its own water
10 system, may contract with any utilities district, municipality, or
11 corporation for the installation of a water system and for the
12 provision of water service for fire protection and for the use of
13 the residents of the district.

14 (f) For the purposes listed in this section, such
15 majority of the owners may make and sign articles of association
16 in which shall be stated (i) the name of the district, (ii)
17 that the district will have perpetual existence, (iii) the limits
18 of the district, (iv) the names and places of residence of the
19 owners of the land in the proposed district, (v) the description
20 of the several tracts of land situated in the district owned
21 by those who may organize the district, (vi) the name or names
22 and the description of the real estate owned by such owners
23 as do not join in the organization of the district but who
24 will be benefited thereby, and (vii) whether the purpose of the
25 corporation is installing gas and electric service lines and

1 conduits, installing a sewer system, installing a water system,
2 installing a system of public roads, streets, and highways,
3 public waterways, docks, or wharfs, and related appurtenances,
4 contracting for water for fire protection and for resale to
5 residents of the district, contracting for police protection and
6 security services, contracting for library services, contracting
7 for street lighting for the public streets and highways within the
8 proposed district, constructing or contracting for the construction
9 of dikes and levees for flood protection of the proposed district,
10 acquiring, improving, and operating public parks, playgrounds,
11 and recreational facilities, or, when permitted by this section,
12 contracting with other sanitary and improvement districts to
13 acquire, build, improve, and operate public parks, playgrounds,
14 and recreational facilities for the joint use of the residents
15 of the contracting districts, contracting for any public purpose
16 specifically authorized in this section, or combination of any one
17 or more of such purposes, or all of such purposes. Such owners of
18 real estate as are unknown may also be set out in the articles as
19 such.

20 (g) No sanitary and improvement district may own or hold
21 land in excess of ten acres, unless such land so owned and held by
22 such district is actually used for a public purpose, as provided in
23 this section, within three years of its acquisition. Any sanitary
24 and improvement district which has acquired land in excess of ten
25 acres in area and has not devoted the same to a public purpose,

1 as set forth in this section, within three years of the date
2 of its acquisition, shall devote the same to a use set forth in
3 this section or shall divest itself of such land. When a district
4 divests itself of land pursuant to this section, it shall do so by
5 sale at public auction to the highest bidder after notice of such
6 sale has been given by publication at least three times for three
7 consecutive weeks prior to the date of sale in a legal newspaper of
8 general circulation within the area of the district.

9 (2) The articles of association shall further state
10 that the owners of real estate so forming the district for
11 such purposes are willing and obligate themselves to pay the
12 tax or taxes which may be levied against all the property in
13 the district and special assessments against the real property
14 benefited which may be assessed against them to pay the expenses
15 that may be necessary to install a sewer or water system or
16 both a sewer and water system, the cost of water for fire
17 protection, the cost of grading, changing grade, paving, repairing,
18 graveling, regravelling, widening, or narrowing sidewalks and roads,
19 resurfacing or relaying existing pavement, or otherwise improving
20 any public roads, streets, or highways within the district,
21 including protecting existing sidewalks, streets, highways, and
22 roads from floods or erosion which has moved within fifteen
23 feet from the edge of such sidewalks, streets, highways, or
24 roads, regardless of whether such flooding or erosion is of
25 natural or artificial origin, the cost of constructing public

1 waterways, docks, or wharfs, and related appurtenances, the cost
2 of constructing or contracting for the construction of dikes
3 and levees for flood protection for the district, the cost of
4 contracting for water for fire protection and for resale to
5 residents of the district, the cost of contracting for police
6 protection and security services, the cost of contracting for
7 library services, the cost of electricity for street lighting for
8 the public streets and highways within the district, the cost of
9 installing gas and electric service lines and conduits, the cost
10 of acquiring, improving, and operating public parks, playgrounds,
11 and recreational facilities, and, when permitted by this section,
12 the cost of contracting for building, acquiring, improving, and
13 operating public parks, playgrounds, and recreational facilities,
14 and the cost of contracting for any public purpose specifically
15 authorized in this section, as provided by law.

16 (3) The articles shall propose the names of five or more
17 trustees who are (a) owners of real estate located in the proposed
18 district or (b) designees of the owners if the real estate is
19 owned by a limited partnership, a general partnership, a limited
20 liability company, a public, private, or municipal corporation, an
21 estate, or a trust. These five trustees shall serve as a board
22 of trustees until their successors are elected and qualified if
23 such district is organized. No corporation formed or hereafter
24 formed shall perform any new functions, other than those for
25 which the corporation was formed, without amending its articles of

1 association to include the new function or functions.

2 (4) After the articles are signed, the same shall be
3 filed in the office of the clerk of the district court of the
4 county in which such sanitary and improvement district is located
5 or, if such sanitary and improvement district is composed of tracts
6 or parcels of land in two or more different counties, in the office
7 of the clerk of the district court for the county in which the
8 greater portion of such proposed sanitary and improvement district
9 is located, together with a petition praying that the same may be
10 declared a sanitary and improvement district under sections 31-727
11 to 31-762.

12 (5) Notwithstanding the repeal of sections 31-701 to
13 31-726.01 by Laws 1996, LB 1321:

14 (a) Any sanitary and improvement district organized
15 pursuant to such sections and in existence on July 19, 1996,
16 shall, after August 31, 2003, be treated for all purposes as if
17 formed and organized pursuant to sections 31-727 to 31-762;

18 (b) Any act or proceeding performed or conducted by
19 a sanitary and improvement district organized pursuant to such
20 repealed sections shall be deemed lawful and within the authority
21 of such sanitary and improvement district to perform or conduct
22 after August 31, 2003; and

23 (c) Any trustees of a sanitary and improvement district
24 organized pursuant to such repealed sections and lawfully elected
25 pursuant to such repealed sections or in conformity with the

1 provisions of sections 31-727 to 31-762 shall be deemed for all
2 purposes, on and after August 31, 2003, to be lawful trustees of
3 such sanitary and improvement district for the term provided by
4 such sections. Upon the expiration of the term of office of a
5 trustee or at such time as there is a vacancy in the office of any
6 such trustee prior to the expiration of his or her term, his or
7 her successors or replacement shall be elected pursuant to sections
8 31-727 to 31-762.

9 (6) For the purposes of sections 31-727 to 31-762 and
10 31-771 to 31-780, unless the context otherwise requires:

11 (a) Public waterways means artificially created boat
12 channels dedicated to public use and providing access to navigable
13 rivers or streams;

14 (b) Operation and maintenance expenses means and
15 includes, but is not limited to, salaries, cost of materials
16 and supplies for operation and maintenance of the district's
17 facilities, cost of ordinary repairs, replacements, and
18 alterations, cost of surety bonds and insurance, cost of audits and
19 other fees, and taxes;

20 (c) Capital outlay means expenditures for construction
21 or reconstruction of major permanent facilities having an expected
22 long life, including, but not limited to, street paving and curbs,
23 storm and sanitary sewers, and other utilities;

24 (d) Warrant means an investment security under article
25 8, Uniform Commercial Code, in the form of a short-term,

1 interest-bearing order payable on a specified date issued by the
2 board of trustees or administrator of a sanitary and improvement
3 district to be paid from funds expected to be received in
4 the future, and includes, but is not limited to, property tax
5 collections, special assessment collections, and proceeds of sale
6 of general obligation bonds;

7 (e) General obligation bond means an investment security
8 under article 8, Uniform Commercial Code, in the form of a
9 long-term, written promise to pay a specified sum of money,
10 referred to as the face value or principal amount, at a specified
11 maturity date or dates in the future, plus periodic interest at a
12 specified rate; and

13 (f) Administrator means the person appointed by the
14 Auditor of Public Accounts pursuant to section 31-771 to manage
15 the affairs of a sanitary and improvement district and to exercise
16 the powers of the board of trustees during the period of the
17 appointment to the extent prescribed in sections 31-727 to 31-780.

18 Sec. 2. Original section 31-727, Reissue Revised Statutes
19 of Nebraska, is repealed.